

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

LINDA BERKLEY

PLAINTIFF

V.

NO.: 3:19-cv-217-MPM-JMV

LAFAYETTE COUNTY, MISSISSIPPI, ET AL.

DEFENDANTS

ORDER

This cause is before the court pursuant to the District Judge's order of January 28, 2022 [210] and my report and recommendation of December 3, 2021 [208] on Defendants' Motion [148] and Joinder [156] for sanctions against Plaintiff for discovery violations.

By my report [208], I recommended an award to Defendants of their requested attorney fees and expenses incurred in pursuing their sanctions motion. Of note, however, is that while the sanctions motion also requested an adverse inference instruction or that the case be dismissed – both for alleged spoliation of evidence – I declined to recommend these sanctions at that time pending additional factual development at trial. Since that time, the district judge has adopted my report and recommendation, granted summary judgment for Defendants on all of the Plaintiff's federal claims, and declined to exercise supplemental jurisdiction over any remaining state law claims. [210]. This leaves for resolution in this case only the matter of the amount of the fees and expenses previously awarded, as there are no claims against Defendants still pending. Thus, making the additional sanctions of dismissal of the same or an adverse inference instruction moot.

Accordingly, it is hereby ordered that the Defendants will, within two (2) business days hereof, submit to the undersigned, with a copy to counsel opposite, an itemization of their reasonable attorney fees and expenses incurred in briefing of the Motion for Sanctions [148] and Joinder [156], including attending the hearing thereon on October 18, 2021. The Plaintiff shall

have two (2) business days thereafter to submit to the undersigned any objection(s) she may have to the reasonableness thereof.

The undersigned will then promptly enter a supplemental order as to amount of the reasonable fees and expenses awarded.

SO ORDERED this, the 31st day of January, 2022.

/s/ Jane M. Virden
UNITED STATES MAGISTRATE JUDGE